

**CITY COUNCIL OF THE CITY OF SAN DIEGO
CLOSED SESSION DOCKET
FOR
MONDAY, FEBRUARY 14, 2005
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings, adopted on March 29, 2004, a portion of the regular open meeting agenda of the City Council has been reserved for City Attorney comment, public comment, and City Council discussion of the content of this Closed Session Docket. **Please see the regular meeting Open Session Agenda to determine when such matters may be heard.**

The City Council will meet in Closed Session immediately following the conclusion of the regular open session meeting on Monday, February 14, 2005, and may continue into Tuesday, February 15, 2005.

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

**CS-1 *AFSCME Local 127 v. City of San Diego*
Los Angeles Superior Court Case No. LA-CE-209-M**

DCA assigned: Sanchez

This case involves an Unfair Labor Practice charge filed with the Public Employment relations Board by Local 127 alleging that San Diego Charter section 129.1 regarding removal of striking employees is an unlawful rule and the that City's practice of requesting new employees to acknowledge receipt of the charter section intimidates and coerces employees in the exercise of their rights under the Meyers-Milias-Brown Act. In Closed Session, the City Attorney will brief the Mayor and Council on the status of the matter and seek appropriate direction.

**CS-2 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 821191**

DCA assigned: McGuiness

This matter concerns the litigation filed by the De Anza Cove Homeowners Association against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City Attorney will report on the status of the litigation, and other matters affecting the litigation.

CS-3 *Border Business Park v. City of San Diego*
Appellate Case No. D039225; SDSC Case No. GIC 692794
Otay Acquisitions v. City of San Diego
San Diego Superior Court No. Case No. GIC 753247
National Enterprises, Inc. v. City of San Diego
San Diego Superior Court Nos. GIC 791407; GIC 805465

ACA assigned: Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. The Border Business Park case has been referred to a mediation process in the appellate court. In closed session the City Attorney will report on the status of the mediation and request appropriate direction.

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-4 *City of San Diego v. Berryman & Henigar, Inc.*

DCA assigned: Fusco

This matter involves a dispute between the City and an engineering design firm, Berryman & Henigar, Inc., who designed the sewer line on the La Jolla/Pacific Beach Chelsa Street Trunk Sewer Relocation Project. The City contends Berryman & Henigar, Inc. is responsible for costs associated with a conflict between the new sewer line and an existing storm drain structure. In closed session, the City Attorney will advise the Mayor and Council as to the propriety of the proposed settlement and discuss whether to proceed to litigation or approve the proposed settlement agreement.

Conference with Labor Negotiator, pursuant to Government Code section 54957.6:

CS-5 Agency negotiators: Lamont Ewell, Cathy Lexin, Mike McGhee

**Employee organizations: Municipal Employees Association, Local
127 AFSCME, AFL-CIO, Local 145
International Association of Firefighters
AFL-CIO, San Diego Police Officers Association**

DCA assigned: Morris

In closed session, the City's negotiating team will review with the City Council the City's anticipated position with respect to the upcoming meet and confer process. Topics to be discussed include, but are not limited to: 1) salaries and wages, 2) health benefit plans, and 3) retirement benefits, including the recommendations from the Pension Reform Committee. The City Manager and staff will request instructions from the City Council as to those matters.

Public employment, pursuant to California Government Code section 54957(b)(1):

CS-6 Title: City Manager